REMARKS and ARGUMENTS

Applicants appreciate the Examiners attention to this application. Claims 1-37 are pending in the Application. All claims stand rejected under 35 U.S.C. § 103(a). A declaration under 37 C.F.R. § 1.131 is being submitted with this response to disqualify one of the references as prior art.

Objections to Prior-filed Declaration

The Office Action suggests that the declaration filed by Applicants on 19 May 2006 under 37 CFR 1.131 is ineffective to overcome the Damron reference. A Supplemental Declaration by registered patent attorney Shireen Bacon is filed herewith, providing evidence that the invention was conceived in the United States and Israel and providing further evidence of diligence. Applicants maintain that the original declaration along with the Supplemental Declaration is effective to overcome the Damron reference.

Place of Invention. The Supplemental Affidavit includes as an Exhibit a redacted copy of the Invention Disclosure Form. The Supplemental Affidavit asserts that this IDF form was submitted to the Intel legal department prior to the effective date of the Damron reference. The IDF form supplied in the Exhibit indicates that each of the inventors lives and works in either California or Israel. The evidence of this includes their residence addresses, the area codes of their phone numbers, and their Intel mail stops. This information is evidence that the inventors worked for Intel in this country or a NAFTA or WTO country, and is therefore evidence that the invention was conceived in this country or a NAFTA or WTO country.

Evidence of Conception. Applicants disagree with the Examiner's statement that the original "declaration does not specifically discuss the evidence relied upon and how it shows that the claimed invention was conceived prior to the Damron reference." The original Declaration specifically recites that the evidence they are relying upon to support that the claimed invention was conceived prior to the Damron reference is "shown by the Exhibit attached to this declaration."

Regarding the Examiner's assertion that Applicants "do not show details about how the evidence shows this", Applicants must strenuously disagree. In their Declaration, Applicants state that the Exhibit is an invention disclosure form submitted before the effective date. What more is needed to prove conception before the effective date than an invention disclosure document, which is the type of "demonstrative evidence" of "complete disclosure to another" requested by the Examiner, that shows, in complete detail, that the inventors were in possession of the invention prior to the effective date? Applicants respectfully request that the Examiner withdraw this portion of this objection to the Declaration, or else provide more specific guidance regarding what else he would require from Applicants in this regard.

Diligence. Regarding evidence of diligence, the Supplemental Affidavit of Shireen Bacon provides additional facts regarding diligence. It should be noted that critical period for diligence for a first conceiver but second reducer begins not at the time of conception of the first conceiver but just prior to the entry in the field of the party who was first to reduce to practice and continues until the first conceiver reduces to practice. *Hull v. Davenport*, 90 F.2d 103, 105, 33 USPQ 506, 508 (CCPA 1937) as cited in MPEP 2138.06. It should also be noted that does not require that "an inventor or his attorney drop all other work and concentrate on the

particular invention involved.." *Emery v. Ronden*, 188 USPQ 264, 268 (Bd. Pat. Inter. 1974) as cited in MPEP 2138.06.

The critical period runs just before Damron entered the field by filing the patent application on January 28, 2003. The Declaration shows that reasonable diligence began before this date and continued until the application was filed on July 31, 2003. This period of time is approximately six months. This length of time is a reasonable amount of time in which to diligently draft a patent application. See, e.g., Flex-Rest, LLC v. Steelcase, Inc., 455 F.3d 1351, 2006 U.S. App. LEXIS 17466 (Fed. Cir. 2006) (6.5 months to draft and file a patent application not unreasonable).

While Ms. Bacon did not drop all other work to concentrate on the current patent application, she did concentrate on, in due order, the drafting of a set of patent applications to which the current application was related, and in according with a well-reasoned strategy for the order in which the cases should be drafted. She also worked on the drafting and filing of other unrelated cases, in due order, that she had been assigned to write. This is sufficient evidence of diligence. See *Bey v. Kollonitsch*, 866 F.2d 1024, 231 USPQ 967 (Fed. Cir. 1986) (Reasonable diligence is all that is required of the attorney. Reasonable diligence is established if attorney worked reasonably hard on the application during the continuous critical period. If the attorney has a reasonable backlog of unrelated cases which he takes up in chronological order and carries out expeditiously, that is sufficient. Work on a related case(s) that contributed substantially to the ultimate preparation of an application can be credited as diligence.) as cited in MPEP 2138.06.

Thus, the original declaration submitted by the Applicants along with the Supplemental Declaration submitted herewith are sufficient to overcome the Damron reference.

Claim Rejections -35 USC § 103(a)

The Office Action has rejected Claims 1-3, 5-9, and 11-13, 15, 18-22 and 25-29 under 35 U.S.C. § 103(a) as being unpatentable over Damron (U.S. Patent Application Publication No. US 2004/0148491 A1) in view of Jamil (U.S. Patent Application Publication No. US 2003/0126365 A1). Although not specifically listed in paragraph 5 of the Office Action (the introductory paragraph for the Damron/Jamil rejections), it appears from the body of the Office Action that Claim 31 also stands rejected on these grounds (see text between paragraphs 20 and 21 of the Office Action).

The Office Action has also rejected Claims 4, 16, and 32-37 under 35 U.S.C. § 103(a) as being unpatentable over Damron in view of Jamil and in further view of Jeddeloh (U.S. Patent No. 6,789,168 B2). Finally, the Office Action also rejects Claims 10 and 17 under 35 U.S.C. § 103(a) as being unpatentable over Damron in view of Jamil and in further view of Luk (U.S. Patent Application Publication No. US 2002/0055964 A1). However, the Office Action has failed to meet its burden of makings it prima facie case of obviousness for the claims, and such rejections should be withdrawn.

The filing date of Damron is January 28, 2003 (the "Effective Date"). The present invention was conceived before that Effective Date. The Application was diligently drafted and filed during the time between just before the filing date of Damron until July 31, 2003.. Accompanying this response are a Supplemental Declaration and associated evidence which provide additional facts concerning the conception and diligent constructive reduction to practice of the present invention.

In view of the foregoing, a prima facie case of obviousness has not been made with respect to any claim in the case. Since all of the rejections under 35 U.S.C. § 103(a) rely on

Damron, to the extent that those rejections might be applied to the claims, those rejections should be withdrawn. All claims remaining in the case should therefore be allowed.

Accordingly, Applicants respectfully submit that the applicable rejections have been overcome and must all be withdrawn. Applicants reserve all rights with respect to the application of the doctrine equivalents. Applicant respectfully requests that a timely Notice of Allowance be issued in this case. If the Examiner feels that an interview would help to resolve any remaining issues in the case, the Examiner is invited to contact Shireen Bacon of Intel, at (512) 732-3917.

Please charge any shortages and credit any overcharges to our Deposit Account No. 02-2666.

Respectfully submitted,

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